

Attorney or Party Name, Address, Telephone & FAX Numbers, and California State Bar Number JEFFREY W. BROKER - State Bar No. 53226 BROKER & ASSOCIATES PROFESSIONAL CORPORATION 18191 Von Karman Avenue, Suite 470 Irvine, CA 92612-7114 (949) 222-2000	FOR COURT USE ONLY FILED 04 JUN 14 PM 2:35 CLERK U.S. BANKRUPTCY COURT CENTRAL DISTRICT OF CALIFORNIA
UNITED STATES BANKRUPTCY COURT CENTRAL DISTRICT OF CALIFORNIA	CASE NO. 03-26484-MG DEPUTY
In re: JEFFREY BENNETT and NAN EISLEY-BENNETT, Debtor(s).	

NOTICE OF SALE OF ESTATE PROPERTY

Sale Date: 7/13/04	Time: 10:30 a.m.
Location: United States Bankruptcy Court, 3420 Twelfth Street, Courtroom 302, Riverside, CA 92501	

Type of Sale: ☒ Public ☐ Private Last date to file objections: 6/29/04

Description of Property to be Sold: Single family residence located at 29049 Big Cedar Cove, Lake Arrowhead, CA 92352
 together with substantially all of its furnishings and Dock on Lake Arrowhead

Terms and Conditions of Sale: All cash, closing date of July 20, 2004. See Motion for Order Authorizing Sale of
Real Property for further details.

Proposed Sale Price: \$755,000.00

Overbid Procedure (If Any): See Motion for Order Authorizing Sale of Real Property and copy of Notice
pertaining thereto attached which sets forth overbid procedure

If property is to be sold free and clear of liens or other interests, list date, time and location of hearing:

Contact Person for Potential Bidders (include name, address, telephone, fax and/or e:mail address):

JEFFREY W. BROKER, ESQ.
BROKER & ASSOCIATES PROFESSIONAL CORPORATION
18191 Von Karman Avenue, Suite 470
Irvine, CA 92612-7114
email: jbroker@balawcorp.com FAX (949) 222-2022

Date: 6/14/04

JEFFREY W. BROKER – State Bar No. 53226
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18191 Von Karman Avenue, Suite 470
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Facsimile: (949) 222-2022

General Reorganization Counsel for
Debtors and Debtors-in Possession

**UNITED STATES BANKRUPTCY COURT
CENTRAL DISTRICT OF CALIFORNIA
RIVERSIDE DIVISION**

In re:	)	Case No. RS-03-26484 MG
	)	Chapter 11 Proceeding
JEFFREY BENNETT and)	
NAN EISLEY-BENNETT,	)	NOTICE TO CREDITORS AND PARTIES IN INTEREST OF
	)	DEBTORS' MOTION FOR ORDER AUTHORIZING :
	)	(1) SALE OF REAL PROPERTY FREE AND CLEAR OF LIENS,
	)	CLAIMS AND INTERESTS, WITH LIENS TO ATTACH TO SALE
Debtors and Debtors-in-Possession	)	PROCEEDS; (2) OVERBID PROCEDURE; (3) DISTRIBUTION
	)	OF SALE PROCEEDS, INCLUDING PAYMENT OF SALES
	)	COMMISSIONS [LAKE ARROWHEAD PROPERTY]
)	
	)	DATE: July 13, 2004
	)	TIME: 10:30 a.m.
	)	CTRM: 301

TO THE OFFICE OF THE UNITED STATES TRUSTEE, ALL CREDITORS AND PARTIES IN INTEREST:

PLEASE TAKE NOTICE that Jeffrey Bennett and Nan Eisley-Bennett, the Debtors and Debtors-in-Possession in the within voluntary Chapter 11 case (the "Debtors"), hereby move that the Court authorize the sale of that certain improved real property consisting of a single family residence commonly known as 29049 Big Cedar Cove, Lake Arrowhead, CA 92352 together with substantially all of its furnishings (the "Property"), legally described as follows:

PARCEL A:

LOT 68 OF TRACT NO. 12783-2, IN THE COUNTY OF SAN BERNARDINO, STATE OF CALIFORNIA, AS PER MAP RECORDED IN BOOK 213, PAGES 37 THROUGH 42, INCLUSIVE OF MAPS, IN THE OFFICE OF THE COUNTY RECORDED OF SAID COUNTY.

EXCEPT THE EASEMENTS DESCRIBED IN THE DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR CEDAR RIDGE RECORDED ON SEPTEMBER 12, 1985 AS INSTRUMENT NO. 85-223316 AND AMENDMENTS RECORDED ON OCTOBER 3, 1985 AS INSTRUMENT NO. 85-244495 AND APRIL 13,

1987 AS INSTRUMENT NO. 87-120328 AND A DECLARATION OF ANNEXATION RECORDED SEPTEMBER 23, 1988 AS INSTRUMENT NO. 88-320150 ALL OF OFFICIAL RECORDS OF SAN BERNARDINO COUNTY, CALIFORNIA.

EXCEPT ALL RIGHTS TO AND OWNERSHIP OF ALL GEOTHERMAL RESOURCES, MINERAL, ORES, PRECIOUS METALS, SUBSTANCES AND HYDROCARBONS OF EVERY KIND AND CHARACTER, INCLUDING PETROLEUM, OIL, GAS, ASPHALTUM AND TAR, THAT MAY NOW OR HEREAFTER BE FOUND, LOCATED, CONTAINED, DEVELOPED OR TAKEN ON, IN UNDER OR FROM SAID LAND, WITHOUT HOWEVER, ANY RIGHT OF SURFACE ENTRY OR ANY RIGHT OF ENTRY TO THE SUBSURFACE THEREOF TO A DEPTH OF 500.00 FEET BENEATH THE SURFACE OF SAID REAL PROPERTY, AS RESERVED IN THE DEED RECORDED MAY 4, 1989 AS INSTRUMENT NO. 89-158704, OFFICIAL RECORDS.

PARCEL B:

A NONEXCLUSIVE RIGHT, APPURTENANT TO PARCEL A, TO USE THE COMMON AREA AS SAID TERM IS DEFINED, INCLUDING ANY LIMITATION ON USE THEREOF, IN SAID DECLARATION, INCLUDING, BUT NOT LIMITED TO, THE ROADWAY KNOWN AS BLUE RIDGE DRIVE.

APN: 0331-521-07-000

PLEASE TAKE FURTHER NOTICE that the sale of the Property will include the purchase by the Buyers of a dock (the "Dock") located at Lake Arrowhead, which is legally described as follows:

TOGETHER WITH THOSE RIGHTS TO THAT CERTAIN DOCK-SITE NUMBER DAM 5 SLIP, LOCATED ON A MAP OF LAKE ARROWHEAD, MAINTAINED IN THE OFFICES OF ARROWHEAD LAKE ASSOCIATION AT LAKE ARROWHEAD, CALIFORNIA, TO BE USED AS A PORTION OF INSURED ESTATE IN AND TO THAT CERTAIN REAL PROPERTY, DESCRIBED ABOVE, AS DESCRIBED IN THAT CERTAIN DOCUMENT ENTITLED CONVEYANCE OF EASEMENT DETERMINABLE, RECORDED AUGUST 31, 1996 AS INSTRUMENT NO. 96-306371, OFFICIAL RECORDS.

PLEASE TAKE FURTHER NOTICE that a hearing on the Motion will take place on July 13, 2004 at 10:30 a.m. in Courtroom 301, United States Bankruptcy Court, located at 3420 Twelfth Street, Courtroom 301, Riverside, California 92501.

PLEASE TAKE FURTHER NOTICE that the Debtors will move that the sale of the Property be free and clear of liens, claims and interests of any third party or parties, and that the liens, claims and interests of any third party or parties attach to and be promptly paid from the proceeds of sale of the Property upon the close of escrow (after the payment of real estate sales commissions and closing costs) in the order of recorded priority.

This Motion is based upon the grounds that it is in the best interests of the estate and its creditors that the Property be sold in the fashion proposed since it will generate significant funds that will be used to reduce the claims of creditors in the case. The proposed buyers of the Property and the Dock are Lee Gwyn

and Melinda Gwyn (collectively "Buyers"). By way of summary, the purchase price for the Property is \$755,000.00, which will be paid at closing pursuant to an all cash transaction. Escrow has been opened at Vanguard Escrow, 337 State Highway 173, P.O. Box 1489, Lake Arrowhead, CA 92352, Escrow No. 23519LS ("Escrow"). Escrow is to close on or before July 20, 2004. \$15,000.00 has been deposited by Buyers into Escrow. Real estate brokerage commissions in the total amount of 6.0% are to be paid to RE/MAX Lake Arrowhead, but usual and customary closing costs are to be paid on the part of both the Debtors as sellers and Buyers. There are inspection, appraisal and financing contingencies in connection with the transaction that are to be removed prior to the scheduled close of escrow. The inspection contingency is to be removed by no later than 17 days after May 24, 2004. The appraisal contingency requires that the Property appraise at no less than the specified purchase price. The financing contingency is to remain in effect until the loan is funded. A true and correct copy of the underlying contract for purchase of the Property is attached as Exhibit 1 to the Declaration of Jeffrey Bennett filed in support of the Motion (the "Bennett Declaration"). The Debtors reserve the right to present amendments to the contract to purchase the Property to the Court at the time of the hearing so long as such amendments do not materially alter the terms of the proposed sale.

PLEASE TAKE FURTHER NOTICE that the proposed sale will be subject to overbid at the time and place of the hearing on this Motion on the following terms and conditions:

- (a) Only Qualified Bidders may submit an overbid. A "Qualified Bidder" is one who provides a financial statement and such business and banking references as are required in the Debtors' reasonable discretion sufficient to assure Debtors of the bidder's ability (based on availability of financing, experience or other conditions) to consummate the purchase of the Property, AND one who can consummate the purchase of the Property on the same terms and conditions, other than price, as those proposed in the purchase contract documents.
- (b) Each bid must be received by the Debtors' counsel no later than three (3) business days prior to the hearing on this Motion.
- (c) The initial overbid must exceed the purchase offer by a minimum of Ten Thousand U.S. dollars (\$10,000.00). Each subsequent bid must then be in increments of \$10,000.00 in overbid for the estate.
- (d) Each bid must be all cash, non-contingent, and on the same terms and conditions, other than price, as those proposed in the purchase contract documents.
- (e) Each bidder must make an "earnest money" deposit of at least \$40,000.00 PLUS the amount of the 'net' overbid. Said deposit must be received by the attorneys for the Debtor by no later than three (3) business days prior to the hearing on this Motion. Said "earnest money" deposit must be in cash, cashier's check, or certified check payable to the order of the Debtors no later than three (3) business days prior to the hearing on this Motion.

PLEASE TAKE FURTHER NOTICE THAT IF YOU DO NOT OPPOSE THE RELIEF REQUESTED IN THE MOTION DESCRIBED ABOVE, YOU NEED TAKE NO FURTHER ACTION. HOWEVER, IF YOU OBJECT TO THE RELIEF REQUESTED IN THE MOTION, PURSUANT TO LOCAL BANKRUPTCY RULE 9013-1(a)(7), EACH INTERESTED PARTY RESPONDING TO THE MOTION SHALL, NOT LATER THAN FOURTEEN (14) DAYS PRIOR TO THE DATE SCHEDULED FOR THE HEARING ON THE MOTION, FILE WITH THE CLERK OF THE UNITED STATES BANKRUPTCY COURT LOCATED AT LOCATED AT 3420 TWELFTH STREET, FIRST FLOOR, RIVERSIDE, CALIFORNIA 92501, EITHER (1) A BRIEF, BUT COMPLETE WRITTEN STATEMENT OF ALL REASONS IN OPPOSITION THERETO OR IN SUPPORT OR JOINDER THEREOF AND AN ANSWERING MEMORANDUM OF POINTS AND AUTHORITIES, DECLARATIONS AND COPIES OF ALL PHOTOGRAPHS AND DOCUMENTARY EVIDENCE UPON WHICH THE RESPONDING PARTY INTENDS TO RELY; OR (2) A WRITTEN STATEMENT THAT THE MOTION WILL NOT BE OPPOSED.

PLEASE TAKE FURTHER NOTICE THAT ANY PARTY OPPOSING THE MOTION MUST SERVE A COPY OF SUCH WRITTEN OPPOSITION TO THE MOTION AND ALL SUPPORTING PAPERS UPON THE COUNSEL FOR THE MOVING PARTY AT THE ADDRESSES INDICATED IN THE UPPER LEFT HAND CORNER OF THE FIRST PAGE OF THIS MOTION, AND ALSO UPON THE OFFICE OF THE UNITED STATES TRUSTEE, LOCATED AT 3685 MAIN STREET, SUITE 300, RIVERSIDE, CALIFORNIA 92501. THE FAILURE TO TIMELY FILE AND SERVE ANY SUCH OPPOSITION AND ALL SUPPORTING PAPERS MAY BE DEEMED BY THE COURT TO CONSTITUTE CONSENT TO THE RELIEF REQUESTED IN THE MOTION PURSUANT TO LOCAL BANKRUPTCY RULE 9013-1(a)(11).

Dated: June 10, 2004

BROKER & ASSOCIATES
PROFESSIONAL CORPORATION

By: 

JEFFREY W. BROKER

General Reorganization Counsel for Debtors and
Debtors-in-Possession

Date Served: June 11, 2004

PROOF OF SERVICE
1013A (3) CCP

STATE OF CALIFORNIA, COUNTY OF ORANGE

I am employed in the County of Orange, State of California. I am over the age of 18 and not a party to the within action. My business address is 18191 Von Karman Avenue, Suite 470, Irvine, California 92612-7114

On June 14, 2004, I served the document(s) named below on the parties in this action as follows:

DOCUMENT(S) SERVED: NOTICE OF SALE OF REAL PROPERTY

SERVED UPON:

Office of the U.S. Trustee
Attn: Timothy J. Farris, Esq.
3685 Main Street, Ste. 300
Riverside, CA 92501

☒ (BY MAIL) I caused each such envelope, with postage thereon fully prepaid, to be placed in the United States mail at Irvine, California. I am readily familiar with the practice of the firm for collection and processing of correspondence for mailing, said practice being that in the ordinary course of business, mail is deposited in the United States Postal Service the same day as it is placed for collection. I am aware that, on motion of the party served, service is presumed invalid if the postal cancellation date or postage meter date is more than one day after the date of deposit for mailing as set forth in this affidavit.

☐ (BY PERSONAL SERVICE) I caused such envelope to be delivered by hand on the same date.

☐ (BY OVERNIGHT MAIL) I am readily familiar with the practice of the firm for the collection and processing of correspondence for overnight delivery and know that the document(s) described herein will be deposited in a box or other facility regularly maintained by Federal Express for overnight delivery.

☒ (FEDERAL) I declare that I am employed in the office of a member of the bar of this court, at whose direction this service was made.

Executed on June 14, 2004, at Irvine, California.


Sandra A. Thompson